

**COMMON COUNCIL OF THE CITY OF AUSTIN, INDIANA**

**ORDINANCE NO. 2024-13**

**AN ORDINANCE AMENDING THE ZONING MAPS OF THE  
COMPREHENSIVE ZONING ORDINANCE NOW IN EFFECT FOR THE  
CITY OF AUSTIN, INDIANA**

**WHEREAS**, the City of Austin Advisory Plan Commission has referred to the Common Council the application of Daniel J. Lowe and Rauch, Inc. to rezone certain lands within the jurisdictional area of the City of Austin, Parcel No(s). 72-03-35-340-068.001-003, 72-03-35-340-068.000-003, and 72-03-35-300-040.002-003, located at W. York Rd. in Austin, Scott County, Indiana 47102 (the “Property”) as requested in a rezoning application, Case Number RZ-02-2024, to the Austin Advisory Plan Commission; and

**WHEREAS**, the City of Austin Advisory Plan Commission, having met on October 30, 2024, and hearing evidence on the application, now refers this request to the Common Council with a **FAVORABLE** recommendation by a vote of 8-0 to rezone from R-1 Residential to R-2 Residential.

**NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF AUSTIN, INDIANA, THAT:**

**SECTION 1. REZONE:** Through the authority of IC 36-7-4 and pursuant to the City of Austin Municipal Code, the zoning of the Property shall be changed from

- R-1 to R-2

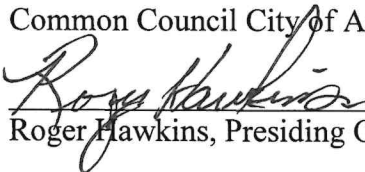
The property is legally described as follows: See attached Exhibit "A" for legal description and map.

**SECTION 2. NO CONFLICT:** All ordinances, resolutions, and orders (or parts thereof) that conflict with the provisions of this Ordinance hereby is repealed to the extent of such conflict.

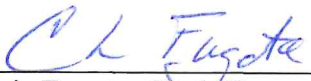
**SECTION 3. SEVERABILITY:** If any section, paragraph, or provision of this Ordinance is held to be invalid or unenforceable for any reason, then the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 4. EFFECTIVENESS:** This Ordinance shall be in full force and effect from and after its passage, recording, and publication in accordance with the Indiana Code.

**PASSED AND ADOPTED** by the Common Council of the City of Austin, Indiana, this 12<sup>th</sup> day of November, 2024 by a vote of 2 ayes and 1 nays.

Common Council City of Austin, Indiana  
  
\_\_\_\_\_  
Roger Hawkins, Presiding Officer


Attest:

  
\_\_\_\_\_  
Chris Fugate, Clerk-Treasurer


Presented by me to the Mayor of the City of Austin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, on November 12, 2024 at 5:47 p.m.

  
\_\_\_\_\_  
Chris Fugate, Clerk-Treasurer

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1), on November 13, 2024 at 5:47 p.m.

  
\_\_\_\_\_  
Roger Hawkins, Mayor

Attest:

  
\_\_\_\_\_  
Chris Fugate, Clerk-Treasurer

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ Joshua Stigdon

PREPARED BY: Joshua Stigdon, #29501-72  
Houston, Thompson, and Lewis, PC  
59 E. Wardell St.  
Scottsburg, IN 47170

**EXHIBIT "A"**

**Legal Description**

**Parcel No.: 72-03-35-300-040.002-003 and 72-03-35-300-040.002-003**

**Prior Deed Reference: 2019003337**

A part of the southwest fourth and a part of the southeast fourth of the southwest quarter of Section 35, Township 4 North, Range 6 East, 2nd principal meridian, being unplatted tracts lying within the corporate limits of the City of Austin, Scott County, Indiana, and also being a part of the land of Clayton White and Rosemary White as described in Deed Record 56, page 663, the land of Clayton White and Rosemary White as described in Deed Record 70, page 687 and the land of Clayton White and Rosemary White as described in Deed Record 92, page 392, Office of the Recorder, Scott County, Indiana, more particularly described as follows: Beginning at the southwest corner of the southeast fourth of the southwest quarter of Section 35, Township 4 North, Range 6 East, 2nd principal meridian, said corner being marked by a mag nail, thence north 89 degrees 37 minutes 28 seconds east (the east line of said fourth is assumed north 00 degrees 41 minutes 03 seconds west as shown on the plat of survey recorded as Document Number 2017001900, in Cabinet 5, Slide 556-D, Office of the Recorder, Scott County, Indiana, and is the reference meridian) with the south line of said fourth 260.65 feet to a mag nail, thence north 00 degrees 06 minutes 42 seconds west 656.96 feet to a steel rod, thence south 89 degrees 45 minutes 50 seconds west 268.38 feet to the northwest corner of the south half of said fourth, said corner being marked by a steel rod, thence south 89 degrees 30 minutes 56 seconds west 66.84 feet to a steel rod, thence south 00 degrees 47 minutes 07 seconds east 657.50 feet to a mag nail in the south line of said southwest fourth, thence north 89 degrees 37 minutes 09 seconds east 66.84 feet to the point of beginning, containing 3.991 acres in the southeast fourth and 1.009 acres in the southwest fourth for a total of 5.000 acres and being subject to all legal rights-of-way.

**Parcel No.: 72-03-35-340-068.001-003**

**Prior Deed Reference: 2016002253**

A part of the southeast fourth of the southwest quarter of Section 35, Township 4 North, Range 6 East, 2nd principal meridian, Scott County, Indiana and also being a part of the land of Clayton White and Rosemary White as recorded in Deed Record 70, page 687, Office of the Recorder, Scott County, Indiana, more particularly described as follows: Commencing 40 rods East of the southwest corner of the southeast fourth of the southwest quarter of Section 35, Township 4 North, Range 6 East, 2nd P.M., being the southeast corner of the land of Lushin Fugate and

Linda L. Fugate as recorded in Deed Record 77, page 19, Office of the Recorder, Scott County, Indiana: thence North with the east line of Fugate the Grantor's east line 660 feet to the Grantor's northeast corner; thence West with the Grantor's north line 264 feet to the TRUE POINT OF BEGINNING, thence continuing west with said line 132 feet; thence South parallel with the Grantor's east line 660 feet to the Grantor's south line; thence East with said line 132 feet; thence North parallel with the Grantor's east line 660 feet to the TRUE POINT OF BEGINNING, containing 2 acres, and being subject to all legal rights-of-way.

**END OF LEGAL DESCRIPTION**

/Users/stigdonh/HTL Lawyers Dropbox/Josh Stigdon/MyCase/Cases/City of Austin General Business Matters/2024 Austin/Ordinances, Resolutions, Contracts, Etc/11-8-2024 Rauch Rezone Ordinance R1 to R2.docx

# APPLICATION RECORD OF VOTING FOR CHANGE IN ZONING

CASE NUMBER: RZ-02-2024  
APPLICANT(s): Daniel J Lowe  
OWNER(s): Rauch, Inc

DATE: September 26, 2024

In preparing and considering, the Austin Advisory Plan Commission and the legislative body shall pay reasonable regard to:

1. That the change in zone will not adversely affect the values of surrounding property;
2. That the proposed use is the best and most adequate use of the property;
3. That the proposed change in zone does not constitute spot zoning; that the owner of the property in question is not being favored over surrounding property owners;
4. That the owner can comply with all the requirements of this chapter;
5. That traffic congestion will not be unnecessarily increased;
6. That the owner is not speculating on land values; and
7. That the proposed change is in line with good zoning practice

## RECOMMENDATION BY APC:

- Favorable Recommendation  
 Unfavorable Recommendation  
 No Recommendation

## VOTE:

### Tony Stidham, President

- NO  
 YES  
 ABSENT

### John Adams, Vice-President

- NO  
 YES  
 ABSENT

### Trevor McIntosh, Secretary

- NO  
 YES  
 ABSENT

### Gary Hubbard

- NO  
 YES  
 ABSENT

### Melissa Smith

- NO  
 YES  
 ABSENT

### Freddie Hale

- NO  
 YES  
 ABSENT

### Dave Eberenz

- NO  
 YES  
 ABSENT

### Michelle Shelton

- NO  
 YES  
 ABSENT

# RECOMMENDATION TO AUSTIN CITY COUNCIL

CASE NUMBER: RZ-02-2024

DATE FILED: September 26, 2024

APPLICANT(s): Daniel J Lowe

OWNER(s): Rauch, Inc

REQUEST: Change in zoning from R-1 Residential to R-2 Residential at W York Rd, Austin, IN 47102

Property Location: W York Rd, Austin, IN 47102

Parcel ID# 72-03-35-340-068.001-003, 72-03-35-340-068.000-003, 72-03-35-300-040.002-003

Legal Description: SE1/4 SWQR 35-4-6 2A, SE1/4 SWQR 35-4-6 4A, S1/2 SW1/4 SWQR 35-4-6 1.009A

Proposed Use: Rauch, Inc hopes to build a community of single story duplexes and triplexes for a total of forty-eight (48) units.

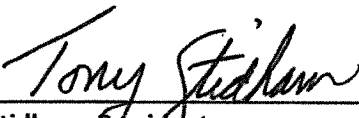
In preparing and considering, the Austin Advisory Plan Commission and the legislative body shall pay reasonable regard to:

1. That the change in zone will not adversely affect the values of surrounding property;
2. That the proposed use is the best and most adequate use of the property;
3. That the proposed change in zone does not constitute spot zoning; that the owner of the property in question is not being favored over surrounding property owners;
4. That the owner can comply with all the requirements of this chapter;
5. That traffic congestion will not be unnecessarily increased;
6. That the owner is not speculating on land values; and
7. That the proposed change is in line with good zoning practice

## RECOMMENDATION BY AUSTIN APC:

- Favorable Recommendation  
 Unfavorable Recommendation  
 No Recommendation

AUSTIN ADVISORY PLAN COMMISSION VOTE: # of YES 8 # of NO 0 # of ABSENT 0



Tony Stidham, President  
Austin Advisory Plan Commission

10/30/2024

Dated